

REMARKS

Claim 10 is presently canceled and new claims 25-35 are added. Claims 13-21 were previously withdrawn. Accordingly, claims 8, 9, 11, 12 and 25-35 are presently pending.

None of the references cited in the Office action disclose the unique arrangement of panels presently recited in the claims. The unique arrangement of side panels provides a protected region between connected first and second major panels between which a first portion of a door is disposed. During assembly of the carton, placing the first portion of the door between the connected first and second major panels protects the first portion of the door, which can be particularly advantageous prior to complete assembly of the carton, such as when the back major panels are unattached to their respective first and second major panels. Thus, the first portion of the door can be protected during assembly of the carton and not just when the carton is fully assembled.

Moreover, once assembled, the connected first and second major panels provide a protected region for the first portion of the door, and prevent interference between food product and the first portion of the door during product loading and after product has been loaded into the carton.

Claims 8-12 presently stand rejected under 35 U.S.C. § 112, second paragraph. Claim 8 has been amended to address this rejection. X

Claim 8 presently stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,189,778 to Kanter. It is respectfully submitted that Kanter does not anticipate claim 8 as presently recited.

More specifically, Kanter merely discloses a wing flap 84 of a pull-out panel 52 that is disposed between fourth wall panel 34 and reinforcing panel 104. As illustrated in the section view of Fig. 4., Kanter does not disclose a back major panel that is substantially overlain by one of the fourth wall panel and the reinforcing panel.

Claim 8 presently stands rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,593,908 to Desmond in view of any of U.S. Patent Nos. 177,279 to Ritter, 632,222 to Malatesta, or 598,087 to Harker. It is respectfully submitted that claim

8, as presently recited, is not unpatentable over Desmond in view of any of Ritter, Malatesta or Harker.

Desmond does not disclose a door having a first portion being slidable between substantially adjacent first and second major panels connected to each other, as recited in claim 8. Instead, the bin side panel 42 of Desmond is slidable between an upper stiffener flap 48 and a lower stiffener flap 46. There is no disclosure in Desmond that the upper stiffener flap 48 and the lower stiffener flap 46 are connected to each other, as recited in claim 8. Indeed, Figure 2 of Desmond illustrates that the upper stiffener flap 48 and the lower stiffener flap 46 are not connected to each other.

In addition, Desmond does not disclose a back major panel having substantially the same length as first and second major panels, and the first and second major panels do not substantially overly each other, as recited in claim 8. As illustrated in Figure 2 of Desmond, the upper stiffener flap 48 and the lower stiffener flap 46 each have a length less than that of the side panel 34. Moreover, the upper stiffener flap 48 and lower stiffener flap 46 do not substantially overly each other, as illustrated in Figures 4 and 5 of Desmond. Thus, a portion of the bin side panel 42 of Desmond is unprotected (see, i.e., the lower portion of the bin side panel in Figures 4 and 5), and can cause interference during product loading.

Given that Desmond lacks recited elements of claim 8, its combination proposed in the Office action with either of Ritter, Malatesta or Harker will not result in the carton recited in claim 8.

Claims 9-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Desmond in view of either Adams (Body Smart) or U.S. Patent No. 1,616,707 to Tanner. It is respectfully submitted that claims 9, 11 and 12 (claim 10 is presently canceled) are not unpatentable over Desmond in view of either Adams (Body Smart) or Tanner.

Adams (Body Smart) merely discloses a door having a side flap that is slidable between a pair of side panels. Adams (Body Smart) does not disclose a back major panel that is substantially overlain by one of the side panels, and does not disclose that the pair of side panels are connected to each other. Tanner does not disclose a door selectively

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providing access to a first window, the door having a first portion being slidable between substantially adjacent first and second major panels. Thus, the combination proposed in the Office action of Adams (Body Smart) with Tanner will not result in the carton recited in claims 9, 11 and 12.

For the reasons set forth above, reconsideration of claims 8, 9, 11 and 12, and allowance of claims 8, 9, 11, 12 and 25-35 are respectfully requested.

The Commissioner is hereby authorized to charge any additional fees which may be required in this application to Deposit Account No. 06-1135.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

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By: _____

Jon A. Birmingham
Registration No. 51,222

120 S. LaSalle St., Suite 1600
Chicago, Illinois 60603
Telephone: (312) 577-7000
Facsimile: (312) 577-7007

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